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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,199	04/14/2004	Jonathan Willinger	JWIL 20.354 (100668-00107)	5866
26304	7590	11/17/2004	EXAMINER	
KATTEN MUCHIN ZAVIS ROSENMAN 575 MADISON AVENUE NEW YORK, NY 10022-2585			NGUYEN, TRINH T	
			ART UNIT	PAPER NUMBER
			3644	

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/824,199

**Applicant(s)**

WILLINGER ET AL.

**Examiner**

Trinh T Nguyen

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: portion 32 and portion 34. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "74" and "78" have both been used to designate palm portion. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required

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corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-8, and 12-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Waldner (US 4,955,321).

For claims 1 and 14, Waldner discloses a pet mat comprising: a) an upper surface bounded by a raised peripheral edge (26-29), and a plurality of raised bumps (30-39) arranged on said upper surface in an irregular, asymmetric pattern.

For claims 2 and 14, Waldner further discloses the plurality of bumps are spaced such that a bowl placed on said upper surface is restrained by said bumps in a plurality of non-dedicated locations.

For claims 3 and 14, Waldner further discloses the raised peripheral edge has an irregular shape.

For claims 4 and 15, Waldner further discloses the raised peripheral edge has a shape that, when viewed from the top of the pet mat, is partially curved and partially straight.

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For claims 5 and 16, Waldner further discloses the plurality of bumps further comprises a series of bumps (30-39) spaced from the raised peripheral edge to prevent a bowl placed on said upper surface from moving toward said raised peripheral edge.

For claim 6, Waldner further discloses the pet mat is made from a non-stick, tacky material (see lines 20-25 of col. 2).

For claims 7 and 17, Waldner further discloses the tacky material is natural rubber (see lines 20-25 of col. 2).

For claims 8 and 18, Waldner further discloses the upper surface further comprises a decorative image (note that the arrangement of portions 30-39 formed a decorative image) and wherein said raised peripheral edge has a shape that is similar to a portion, but not the entirety, of said decorative image.

For claim 12, Waldner further discloses at least one bowl placement locator (30-33) formed on said upper surface.

For claim 13, Waldner further discloses at least one bowl placement locator is part of an ornamental design embossed or imprinted on said upper surface.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 9-11, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waldner (US 4,955,321).

As described above, Waldner discloses most of the claimed invention except for indicating that the decorative image has a specific shape (i.e. the decorative image is a pair of paw prints which is defined by a plurality of oval digits and a circular palm portion). However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the pet mat of Waldner in whatever form or shape was desired or expedient, wherein applicant did not provide a reason or a stated problem is solved by having the specific shape as claimed versus the shape taught by the prior art. Note that a change in form or shape is generally recognized as being well known within the level to one of ordinary skill in the art depending on one's intended use. Furthermore, note that in lines 15 and 16 of page 3 of the specification, applicant stated that "although other ornamental designs are contemplated"; therefore, it is believe that through trial and error in the manufacturing procedure that one comes up with a particular shape to meet the require design criteria for manufacturing of a pet mat.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as cited on PTO-form 892.
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trinh T Nguyen whose telephone number is (703) 306-9082. The examiner can normally be reached on M-F (9:30 A.M to 6:00 P.M).

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The examiner's supervisor, Teri Luu, can be reached on (703) 305-7421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Trinh T Nguyen  
Patent Ex.  
Art Unit 3644  
11/15/04